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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,568

08/18/2005

Mark Arnoldovich Kaufman

V-302

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09/08/2008

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EXAMINER

NEWAY, BLAINE GIRMA

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

09/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/516,568	Applicant(s) KAUFMAN, MARK ARNOLDOVICH	
	Examiner BLAINE G. NEWAY	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The amendment filed on April 25, 2008 has been entered. Claim 1 remains pending in the application, and claim 9 has been added.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is unclear as it is replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1 and 9 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Joyse (US 1,727,235) in view of Haaker (US 2,236,368). New grounds of rejection are necessitated by Applicant's addition of claim 9.

Regarding claim 1, Joyse discloses a box for a glass container, having:

(1) a body consisting of two parts 1 and 3, each pivotally connected to the base 2 with hinge 4 (located away from the external border of the corresponding part of the body), the lower portion of the parts intended for interacting with a supporting surface (figures 1 and 4); and

(2) a base 2 capable of arranging at least one glass container, and having the ability of being raised, when the body parts 1 and 3 are opened in the opposite directions (figure 1).

Joyse fails to disclose the body parts 1 and 3 being provided with a limiter of the opening angle of the body parts executed in the form of flexible connection..

Haaker teaches a container with a strap 58 to limit the opening angle of the case (figure 5 and column 3, lines 23-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided the container of Joyse, a strap as taught by Haaker to limit the opening of the parts 1 and 3.

Regarding claim 9, Joyse further discloses a means 8(for arranging an additional glass container) provided on at least one part of the body (figure 1 and column 1, lines 44-51).

Response to Arguments

6. Applicant's amendment has overcome the 35 USC 112 rejection of claim1.

Applicant's arguments filed on April 25, 2008 have been fully considered but they are not persuasive.

Applicant argues on page 1 of the remarks that " each pivot being located, away from the external border of the corresponding part of the body, at a distance which is selected according to a condition excluding the return of the body parts to the initial position by the weight of the bottom and the weight of the glass container at a preset opening angle of the body parts". The examiner notes that there are infinite number of possibilities for selecting the distance between the pivot and the external border of the corresponding body part. The Examiner also notes that the weight of the bottom and the weight of the glass container can not always be fixed since the weight of the glass container changes as the content is consumed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

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filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLAINE G. NEWAY whose telephone number is (571)270-5275. The examiner can normally be reached on M-F 7:30 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blaine G Neway/
Examiner, Art Unit 3728

8/27/2008

/Bryon P. Gehman/
Primary Examiner, Art Unit 3728